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REMARKS

The Office Action dated September 19, 2006 required restriction of the claims into four Figure species. In response, Applicants elect Figure 3A, and a sub-species of FIG. 3A. Applicant identifies claims 1-16 as reading on the elected species.

However, Applicants do so with traverse. Applicants dispute the assertion by the Office that the four Species involve separate and distinct inventions.

35 U.S.C. §121 provides that "If two or more independent and distinct inventions are claimed in one application, the Commissioner may require the application to be restricted to one of the inventions." M.P.E.P. §802.01 deviates from the plain meaning of "independent and distinct" by interpreting "and" to mean "or". The Patent Office relies on the absence from the legislative history of anything contrary to this interpretation as support for their position that "and" means "or". Applicants respectfully note that this position is contrary to the rules of statutory construction. Restriction between two dependent inventions is not permissible under the plain meaning of 35 U.S.C. §121.

FIG. 1 illustrates the internal workings of transponder 100, which is used in system 300 illustrated by FIGS. 3A and 3B. FIG. 3B merely shows the same system 300 of FIG. 3A without navigation beacons. Applicants believe that at least FIGS. 1, 3A and 3B are linked by a common inventive concept, namely, a transponder that works within a system.

Further, FIGS. 4A and 4B merely add to the system 300 illustrated by FIGS. 3A and 3B, with additional inputs to the system 300 that are illustrated by FIGS. 4A and 4B. Again, Applicants believe that FIGS. 1, 3A, 3B, 4A, and 4B are linked by a common inventive concept, and, thus, restriction is improper.

According to M.P.E.P. §803, there are two criteria for a proper restriction requirement. First, the two inventions must be independent and distinct. In addition, there must be a serious burden on the Examiner if restriction is not required. Even if the first criterion has been met in the present case, which it has not, the second criterion has not been met.

Applicants assert that a search into prior art with regard to the invention of the different Groups is so related that separate significant search efforts should not be necessary. Accordingly, there is no serious burden on the Examiner to collectively examine the different claim Groups of the subject application. Therefore, restriction is not proper under M.P.E.P. §803.

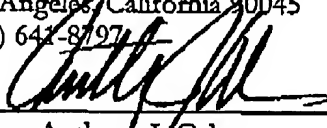
Consequently, Applicants respectfully request the Examiner reconsider and withdraw the restriction requirement. It is also submitted that this application is now in good order for allowance and such allowance is respectfully solicited. Should the Examiner believe minor matters still remain that can be resolved in a telephone interview, the Examiner is urged to call Applicants' undersigned attorney.

Respectfully submitted,

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